IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE Mr. JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.843 OF 2005

Between:

M/s. Vinay Resins

Rep. by its Proprietrix,Smt. V.Sakunthala
H.No.24-60/4/1, IDA, Uppal,

Ranga Reddy Dist.

..... PETITIONER

AND

1) The Deputy Commerical Tax Officer (Int.),

No.VI Division, Enforcement Wing, Hyderabad.

2) The Joint Commissioner(CT),Enforcement,

Andhra Pradesh, Hyderabad.

3) The Commercial Tax Officer, Tarnaka Circle,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of *Mandamus* or any other appropriate Writ or Order or direction declaring the action of the 1st Respondent in colleting the post-dated cheques Nos.088293, dated
17-01-2005; 088294, dated 15-02-2005; 088295, dated
08-03-2005; 088297, dated 25-03-2005; and 088298, dated 17-01-2005, for an amount of Rs.37,011/-; Rs.36,595/-;
Rs.34,180/-; Rs.34,180/- and Rs.3,000/- respectively draw on UTI Bank Limited, Tarnaka Branch, and obtaining the statement by applying threat and coercion is illegal, arbitrary and without authority of law, contrary to the provisions of the Act and in violation of the principles and guidelines laid down by this Hon'ble Court in the case of Lifeline Devices reported in 119 STC 52 and declare that the 2nd Respondent is not empowered under the Andhra Pradesh Tax on Entry of Goods into Local Areas Act, 2001 to authorise any other officer other than the 3rd Respondent for conducting inspection and direct the Respondents to return the cheques forthwith.

Counsel for the Petitioner: Mr. V. BHASKAR REDDY

Counsel for the Respondents: G.P. FOR COMMERCIAL TAXES &
Spl. S.C. for Commercial Taxes.

The Court at the admission stage made the following :

ORDER: (Per Hon'ble Sri Justice B. Sudershan Reddy)

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Commercial Taxes and at their request, the matter is taken up for disposal at the stage of admission.

Issue Rule Nisi.

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue Writ of Mandamus declaring the action of the 1st respondent-Deputy Commercial Tax Officer (Int.), Division – VI, Enforcement Wing, Hdyerabad, in collecting the post-dated

cheques, dated 17-01-2005, 15-02-2005,
08-03-2005, 25-03-2005 and 17-01-2005, for an amount of Rs.37,011/-, Rs.36,595/-, Rs.34,180/-, Rs.34,180/- and Rs.3,000/- respectively, drawn on UTI Bank Limited, Tarnaka Branch, and obtaining the statement by applying threat and coercion as illegal and arbitrary.

In the counter affidavit filed by the respondents, it is stated that pursuant to the directions of this Court, dated
02-02-2005, the cheques so obtained from the petitioner, at the time of inspection, were not submitted to the Bank.
It is further stated that after collection of the cheques, in such manner, the competent authority passed the provisional assessment order.

It is thus clear that the 1st respondent herein even before passing of any provisional assessment order, obtained the post-dated cheques from the petitioner, which is contrary to the law declared by this Court in ***Ambica Lamp House, Rajahmundry & Others v. The Commercial Tax Officer (INT)-I, Enforcement, Hyderabad & Others.***

In such view of the matter, the cheques collected from the petitioner cannot be presented for realization of the amounts. However, the respondents are entitled, in law, to proceed further pursuant to the provisional assessment order, in accordance with law. The remedies of the petitioner to challenge the assessment order already passed and to be passed are left open.

The Writ Petition is accordingly disposed of without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:06-06-2005.

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RAMESH RANGANATHAN, J

PV

To

1) The Deputy Commerical Tax Officer (Int.),

No.VI Division, Enforcement Wing, Hyderabad.

2) The Joint Commissioner(CT),Enforcement,

Andhra Pradesh, Hyderabad.

3) The Commercial Tax Officer, Tarnaka Circle, Hyderabad.

4) Two C.Cs. to G.P. for Commercial Taxes,
High Court of A.P., Hyderabad (O.U.T.).

5) Two C.D. copies.